IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 260 of 2001
with
CIVIL APPLICATION NO.12120 OF 2001

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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NARAYAN SHIVRAM GOSALKAR

Versus

DY CHARITY COMMISSIONER

Appearance:

1. Special Civil Application No. 260 of 2001

MR BHARAT T RAO for Petitioner No. 1-3

Mr.I.M.Pandya, Asst.GOVERNMENT PLEADER for Respondent No. 1

MS KJ BRAHMBHATT for Respondent No. 2

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 26/04/2002

ORAL JUDGEMENT

Heard the learned counsel for the parties and with the consent of learned counsel for parties matter is taken for final hearing today.

2. This petition is preferred by the petitioner against the order dated 3.1.2001 at annexure H whereby the right of reexamination was granted to the applicant of application Exh.28, namely, respondent No.2 herein.

3. Ms.Brahmbhatt appearing for the respondent No.2 submitted that the respondent No.2 is now not interested in examining the witness as per the order dated 4.1.01 and in that view of the matter she further states that the respondent No.2 does not press for implementation of the order dated 4.1.01 passed by the Charity Commissioner which is the subject matter of this petition.

4. Mr.Rao for the petitioner submits that the order which is the subject matter of this petition may be quashed.

5. Considering the above, I am of the view that when the applicant before the Deputy Charity Commissioner who is respondent No.2 herein who is party to the proceedingts himself is not desirous of availing of the benefit of reexamination as per order dated 4.1.01 it would not be necessary for this court to examine the question regarding the legality and validity of the order, but at the same time, in view of the aforesaid submission and the concession given by the respondent No.2 it is directed that the Deputy Charity Commissioner shall not be required to act upon the order dated 4.1.01 for allowing the respondent No.2 to reexamine. Petition is disposed of accordingly.

6. Now it will be open to the concerned Deputy Charity Commissioner to proceed in accordance with law for passing the final order upon the change report. Rule made absolute to the aforesaid extent. No costs.

7. Since main petition is disposed of no order is required to be passed on Civil Application and the civil application stands disposed of accordingly. Notice is discharged.

26.4.2002 (JAYANT PATEL,J)